

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEBORAH FINLEY

DEFENDANTS

Admin Recovery, LLC

(b) County of Residence of First Listed Plaintiff Montgomery Co., PA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Erie Co., NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Stephen F. Gehringer, Esq., Law Offices of Bruce Shaw, LLC
2735 Terwood Road, Willow Grove, PA 19090 - 267-374-4290

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. § 1331; 15 U.S.C. § 1692k(d); 28 U.S.C. § 1367

Brief description of cause:
 Fair Debt Collection Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ 30,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE N/A

DOCKET NUMBER N/A

DATE

04/20/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA
CIVIL DIVISION

Deborah Finley,
Plaintiff,

v.

Admin Recovery, LLC and Brian Malewski
Defendants.

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)
)

COMPLAINT

Case No.

JURY TRIAL DEMANDED

INTRODUCTION

1. The United States Congress has found there is abundant evidence of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress drafted the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (hereinafter “FDCPA”), with the goal to eliminate abusive collection practices utilized by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

JURISDICTION AND VENUE

2. Plaintiff incorporates paragraph 1 as if fully set forth at length herein.
3. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.

4. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), violations of the Pennsylvania Fair Credit Extension Uniformity Act, 73 P.S. § 2270.1, et seq. (FCEUA), and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, et seq., as well as other state law tort claims.
5. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transacted business here in Pennsylvania.

THE PARTIES

6. Plaintiff incorporates paragraphs 1 through 5 as if fully set forth at length herein.
7. The Plaintiff, DEBORAH FINLEY, is an adult individual and citizen of the Commonwealth of Pennsylvania, residing in that state and with an address of 366 Jefferson Drive, Southampton, PA.
8. Defendant, Admin Recovery, LLC, is a New York Limited Liability company engaged in the business of collecting debts with a business address of 9159 Main Street, Clarence, NY 14031 and a registered address of 5930 Main Street, Williamsville, NY 14221. A true and correct copy of the NYS Department of State online business entity information is attached hereto and made a part hereof and identified as Exhibit "A."
9. Defendant Brian Malewski, upon information and belief, is an agent/employee of Defendant Admin Recovery, LLC and has a principal place of business located at 9159 Main Street, Clarence, NY 14031.
10. At all times relevant to this Complaint, Defendants Admin Recovery, LLC and Brian Malewski transacted business in the Eastern District of Pennsylvania and at other

locations throughout the United States, operating as a collection agency and a “debt collectors” as the term is defined by 15 U.S.C. § 1692a(6).

TRIAL BY JURY

11. Plaintiff incorporates paragraphs 1 through 10 as if fully set forth at length herein.
12. Plaintiff is entitled to and hereby respectfully demands a trial by jury. U.S. Constit. Amend. 7. Fed R. Civ. Pro. 38.

FACTS COMMON TO ALL CAUSES OF ACTION

13. Plaintiff incorporates paragraphs 1 through 12 as if fully set forth at length herein.
14. Plaintiff is alleged to have incurred a certain financial obligation.
15. The alleged obligation was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely a credit card debt with a furniture store.
16. Due to circumstances beyond her control, Plaintiff allegedly fell behind on said obligation and became unable to make her monthly payments.
17. Plaintiff’s account was assigned, sold or otherwise transferred to Defendant Admin Recovery, LLC.
18. On or about December 6, 2011, Defendant through an agent/employee who identified himself as “Brian” attempted to contact the Plaintiff at her place of employment.
19. Unable to reach the Plaintiff directly, “Brian” recorded and left a voicemail message for the Plaintiff.

20. Plaintiff's place of employment utilized a phone system in which messages are routed to employees' laptop computers.
21. When a message is retrieved, it is played through the laptop computer.
22. When Plaintiff listened to Defendants' voicemail recording, all nearby co-workers were able to hear the message.
23. Defendant Brian never identified himself as a debt collector, nor did he identify Admin Recovery as a debt collector.
24. Defendant Brian's voicemail informed Plaintiff that the recording was a "very important and urgent message."
25. Defendant Brian's voicemail informed Plaintiff that it was urgent that she contact him before 7:00 p.m. of that same day as a "pick up was being scheduled for Raymour & Flanagan Furniture."
26. Defendant Brian's voicemail informed Plaintiff that the matter he was calling in reference to possessed an "assigned pick up number."
27. Plaintiff, upon hearing the recorded message, was extremely embarrassed and frightened that her co-workers were made aware of her financial situation.
28. Plaintiff, upon hearing the recorded message, was extremely embarrassed and frightened with the belief that Raymour & Flanagan, through Admin Recovery, LLC, would attempt to repossess her furniture from within her home that evening while her husband and children would be present.
29. Neither Raymour & Flanagan nor Admin Recovery, LLC had initiated litigation with the Plaintiff or obtained a judgment against the Plaintiff through any means.
30. Upon information and belief, Raymour & Flanagan is not a secured creditor.

31. Defendants possessed then and currently possess no legal right whatsoever to “schedule” a repossession of the Plaintiff’s furniture.
32. Defendants’ communication as described herein violated numerous provisions of the FDCPA, including, but not limited to 15 U.S.C. 1662c(a)(3), 1662d(6), 1662e(2), 1662e(4), 1662e(5), 1662e(10), 1662f(6) amongst others.
33. While attempting to collect the alleged debt from Plaintiff, Defendants utilized collection tactics that are abusive, harassing and deceptive; and that are contrary to the standards of civilized society and those of other collection agencies in its industry.
34. The acts and omissions of the Defendant Admin Recovery, LLC’s agent/employee, who communicated with Plaintiff, as described herein, were committed within the time and space limits of his agency relationship with his principal, Defendant Admin Recovery, LLC.
35. The acts and omissions of the Defendant Admin Recovery, LLC’s agent/employee were incidental to or of the same general nature, as the responsibilities Defendant Admin Recovery, LLC authorizes its agents to perform in collecting consumer debts.
36. In committing these acts and omissions against Plaintiff, Defendant Admin Recovery, LLC’s agent/employee was motivated to benefit his principal, Defendant Admin Recovery, LLC.
37. Defendant Admin Recovery, LLC is therefore liable to Plaintiff through the Doctrine of Respondeat Superior for the intentional and negligent acts, errors and omissions of its agent/employee conducted in violation of state and federal law, including, but not limited to, violations of the FCPDA.

CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692, et seq.

38. Plaintiff incorporates paragraphs 1 through 37 as if fully set forth at length herein.
39. The foregoing acts and omissions of the Defendants constitute numerous violations of the FDCPA, including, but not limited to each of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692, et seq.
40. As a result of the Defendants' violations of the FDCPA, Plaintiff has suffered out-of-pocket expenses and actual damages, and is therefore entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendants.

COUNT II

VIOLATIONS OF THE FAIR CREDIT EXTENSION UNIFORMITY ACT (FCEUA)

73 P.S. § 2270.1, et seq.

**AND THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER
PROTECTION LAW (UTPCPL)**

73 P.S. § 201-1, et seq.

41. Plaintiff incorporates paragraphs 1 through 40 as if fully set forth at length herein.
42. Defendants are "debt collectors" as defined by 73 P.S. § 2270.3 of the FCUEA.
43. Plaintiff is a "consumer" as defined by 73 P.S. § 2270.3 of the FCUEA.

44. All of the above contacts by the Defendants were “communications” relating to a debt as defined by 73 P.S. § 2270.3 of the FCUEA.

45. The foregoing acts and omissions of the Defendants constitute multiple violations of the FCEUA and UTPCPL, including, but not limited to 73 P.S. § 2270.4(a), as evidenced by the following unfair or deceptive conduct:

- a. Engaging in conduct the natural consequence of which is to harass, oppress, or abuse any debtor in connection with the collection of a debt;
- b. Contacting a Debtor about an alleged Debt at her place of employment;
- c. The placement of telephone calls without meaningful disclosure of the caller’s identity;
- d. The use of false, deceptive or misleading representations or means in connection with the collection of a debt;
- e. The use of any false representation or deceptive means to collect or attempt to collect any debt;
- f. The use of unfair or unconscionable means to collect or attempt to collect an alleged debt;
- g. The false representation of the character or legal status of any debt;
- h. More specifically, utilizing communications intended to deceive or create a belief in the Plaintiff that Raymour & Flanagan possessed the right to repossess the Plaintiff’s furniture from her personal residence on the same day; *and*
- i. More specifically, utilizing communications intended to deceive or create a belief in the Plaintiff that Raymour & Flanagan would arrive at Plaintiff’s personal residence and repossess the Plaintiff’s furniture on the same day.

46. Defendants' acts, as described above, were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law with the purpose of coercing Plaintiff to pay the debt.
47. As a result of the above violations of the FCUEA and the UTPCPL, Plaintiff has suffered ascertainable losses entitling her to an award of statutory, actual and treble damages and attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant for:

COUNT I

- For an order declaring that the Defendants' actions as described above are in violation of the FDCPA;
- For an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant;
- For an award of statutory damages of \$1000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against each and every Defendant;
- For an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant.

COUNT II

- For an order declaring that the Defendants' actions as described above are in violation of the FCEUA and the UTPCPL;

- For an order entered enjoining the Defendants from continuing to communicate with Plaintiff in violation of the FCEUA and UTPCPL;
- For an award of actual damages pursuant to 73 P.S. § 201-9.2(a) against each and every Defendant;
- For an award of statutory damages pursuant to 73 P.S. § 201-9.2(a) against each and every Defendant;
- For an award of treble damages pursuant to 73 P.S. § 201-9.2(a) against each and every Defendant;
- For an award of costs of litigation and reasonable attorney's fees pursuant to 73 P.S. § 201-9.2(a).

Dated this 10th day of April, 2012.

By: /s/ Stephen F. Gehringer, Esq.

STEPHEN F. GEHRINGER, ESQ.
Attorney I.D. 87020
Law Office of Bruce Shaw
2735 Terwood Road
Willow Grove, PA 19090
267-374-4920

VERIFICATION

DEBORAH FINLEY hereby states that she is the PLAINTIFF in this action and that the statements of fact made in the foregoing COMPLAINT are true and correct to the best of her information and belief.

Date: April 10, 2012

Deborah Finley
DEBORAH FINLEY

EXHIBIT “A”

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 19, 2012.

Selected Entity Name: ADMIN RECOVERY LLC
 Selected Entity Status Information
Current Entity Name: ADMIN RECOVERY LLC
Initial DOS Filing Date: SEPTEMBER 04, 2008
County: ERIE
Jurisdiction: NEW YORK
Entity Type: DOMESTIC LIMITED LIABILITY COMPANY
Current Entity Status: ACTIVE

Selected Entity Address Information
DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)
 ADMIN RECOVERY LLC
 5930 MAIN ST
 WILLIAMSVILLE, NEW YORK, 14221

Registered Agent
 NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
SEP 04, 2008	Actual	ADMIN RECOVERY LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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